

NOTICE OF RECEIPT OF BALLOT TITLE AND ELECTION

Notice is hereby given that the City of Newport has called a measure election for May 21, 2013 to submit to the city voters the following ballot title:

CAPTION: Regulating Single-Use Plastic Carryout Bags and Paper Bags

QUESTION: Shall retail establishments, except restaurants, be prohibited from distributing single-use plastic carryout bags and required to charge for paper bags?

SUMMARY: The City Council established a task force to study and recommend a community plan for single-use plastic carryout bags. The Plastic Bag Community Plan Task Force recommended the City Council prohibit retail establishments from distributing single-use plastic carryout bags and require those establishments to charge for paper bags. City Council held two public hearings to consider whether to adopt city code changes as recommended by the Task Force. The Council decided to refer the question to the voters. If approved by the voters, the code will prohibit retail establishments in the City of Newport from providing single-use plastic carryout bags at the time of checkout (point of sale) and require those establishments to charge at least five cents for a paper bag. The Ordinance will not apply to establishments that primarily prepare food or drink or to prescription bags. Customers using a voucher issued under Oregon's Women, Infants and Children program will not be required to pay for bags. Violation of the Ordinance after six months could result in penalties up to \$100 per violation.

An elector dissatisfied with the ballot title may file a petition for review of the ballot title in the Lincoln County Circuit Court no later than 5:00 P.M. on March 6, 2013.

The text of the measure follows:

PROPOSED CODE AMENDMENTS SUBJECT TO VOTER APPROVAL TO CREATE A NEW MUNICIPAL CODE CHAPTER 4.30 REGARDING SINGLE-USE PLASTIC CARRYOUT BAGS

Title IV, Businesses, of the Newport Municipal Code is amended to add Chapter 4.30 as follows:

- 4.30.010 Purpose.
- 4.30.020 Definitions.
- 4.30.030 Supervision by City Manager.
- 4.30.040 Single-Use Plastic Carryout Bag Regulation.
- 4.30.050 Enforcement and Penalties.

- 4.30.010 Purpose.

The purpose of this Chapter is to prohibit retail establishments from distributing single-use plastic carryout bags to their customers and to encourage the distribution and use of reusable options.

4.30.020 Definitions.

- A. ASTM Standard means the current American Society for Testing and Materials (ASTM)'s International D-6400.
- B. City means the City of Newport.
- C. City Manager means the City Manager for the City of Newport or the City Manager's designee acting under his or her direction.
- D. Recyclable Paper Bag means a paper bag that meets all of the following requirements:
 - 1. Is 100% recyclable and contains a minimum of 40% post-consumer recycled content;
 - 2. Is capable of composting consistent with the timeline and specifications of the ASTM Standard.
- E. Retail Establishment means any store, shop, sales outlet, vendor, or special event vendor located within the City of Newport that sells goods at retail. Retail Establishment does not include any establishment where the primary business is the preparation of food or drink:
 - 1. For consumption by the public;
 - 2. In a form or quantity that is consumable then and there, whether or not it is consumed within the confines of the place where prepared; or
 - 3. In consumable form for consumption outside the place where prepared.
- F. Reusable Bag means a bag with handles that is either:
 - 1. Made of cloth or other machine washable material; or
 - 2. Made of durable plastic that is at least 2.25 mils thick.
- G. Separate Offense means each time of checkout (point of sale) in which a single-use plastic carryout bag(s) is provided or made available to customers.
- H. Single-use Plastic Carryout Bag means a plastic bag made from synthetic or natural organic materials that is provided by a retail establishment to a customer at the point

of sale for use to transport or carry away purchases from the retail establishment. A single-use plastic carryout bag does not include:

1. A reusable bag;
 2. A plastic bag provided by a retail establishment to a customer at a time other than the time of checkout. As examples, plastic bags for produce, meat, or bulk items; or
 3. Pharmacy prescription bags.
- I. Special Event Vendor means any person engaged in selling or offering for sale any food, beverage, merchandise, or service within the city during a special event for which the event organizer has obtained a valid business license. Special event vendors must possess all other necessary city, county, and state permits and authorizations.
- J. Vendor means any person engaged in the activity, whether directly or indirectly, of selling or offering for sale any food, beverage, merchandise, or service on public property, streets or sidewalks from a stand, from the person or otherwise.

4.30.030 Supervision by City Manager.

The regulation of single-use plastic carryout bags in the city under the provisions herein shall be under the supervision of the City Manager.

4.30.040 Single-use Plastic Carryout Bag Regulation.

- A. Retail establishments shall not provide or make available single-use plastic carryout bags to customers.
- B. When a retail establishment makes a recyclable paper bag available to a customer at the point of sale, the retail establishment shall charge the customer a reasonable pass-through cost of not less than five cents per recyclable paper bag provided to the customer.
- C. A Retail establishment shall provide customers who use a voucher issued under the Women, Infants and Children Program established by the Oregon Health Authority under ORS 413.500 with a reusable bag or a recyclable paper bag at no cost upon request of the customer at the point of sale.

4.30.050 Enforcement and Penalties.

- A. A person is in violation of Chapter 4.30, if that person is the one who provides or makes available a single-use plastic carryout bag to customers, and/or is a person who is in charge or in control of a retail establishment that provides or makes available a single-use plastic carryout bag to customers, and/or is a person or

business entity (e.g., corporation, firm, partnership, association, limited liability entity, cooperative) who owns a retail establishment that provides or makes available a single-use plastic carryout bag to customers, or is an agent, officer, or manager, director, or employee who exercises authority over the retail establishment that provides or makes available a single-use plastic carryout bag to customers.

- B. A violation of Chapter 4.30 shall be enforced as a civil infraction as provided in Chapter 2.15 of the Newport Municipal Code, with a civil penalty for each separate offense not to exceed \$100.00.

/s/ Margaret M. Hawker
City Recorder/Elections Officer
City of Newport

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